

## **PART II Abuse and Neglect**

### **D. The Definition of Medical Neglect**

#### **2.0 Regulatory Authority**

*The following definitions of words and terms applicable to the definition of medical neglect are found in the Virginia Administrative Code.*

##### **22 VAC 40-705-10. Definitions**

***“Alternative treatment options” means treatments used to prevent or treat illnesses or promote health and well-being outside the realm of modern conventional medicine.***

***“Informed opinion” means that the child has been informed and understands the benefits and risks, to the extent known, of the treatment recommended by conventional medical providers for his condition and the alternative treatment being considered as well as the basis of efficacy for each, or lack thereof.***

***“Life-threatening condition” means a condition that if left untreated more likely than not will result in death and for which the recommended conventional medical treatments carry a probable chance of impairing the health of the individual or a risk of terminating the life of the individual.***

***“Particular medical treatment” means a process or procedure that is recommended by conventional medical providers and accepted by the conventional medical community.***

***“Sufficiently mature” is determined on a case-by-case basis and means that a child has no impairment of his cognitive ability and is of a maturity level capable of having intelligent views on the subject of his health condition and medical care.***

The definition of medical neglect can be found in the Virginia Administrative Code section 22 VAC 40-705-30 (C):

**22 VAC 40-705-30(C). Medical neglect occurs when there is the failure by the caretaker to obtain and or follow through with a complete regimen of medical, mental or dental care for a condition which if untreated could result in illness or developmental delays pursuant to § 63.2-100 of the Code of Virginia. Medical neglect also includes withholding of medically indicated treatment. However a decision by parents or other persons legally responsible for the child to refuse a particular medical treatment for a child with life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other**

***person legally responsible for the child and the child; (ii) the child is 14 years of age and sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person legally responsible for the child and the child have considered alternative treatment options; and (iv) the parents or other person legally responsible for the child and the child believe in good faith that such decision is in the child's best interest.***

Parents and caretakers have a legal duty to support and maintain their children, including the provision of necessary medical care. Medicines, medical treatment and dental treatment are in a category similar to food, clothing and shelter as basic necessities from parent or caretaker to child. However, preventive health care, such as obtaining immunizations and well-baby check-ups, is a matter of parental choice. Failure to obtain preventive health care for children does not constitute medical neglect. *Under certain conditions stated in 22VAC40-705C, the decision of a parent or the person legally responsible for a child with a life-threatening condition to refuse a particular medical treatment is not deemed medical neglect.*